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28 **IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

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# DECLARATION OF CODY MCBRIDE

I, Cody McBride, declare that:

1. I am the lead attorney for Plaintiff United States of America in the above-captioned matter.

2. On November 6, 2023, the United States, as trustee for the Colorado River Indian Tribes (“CRIT”), sued Defendant Craig Ferguson for trespass on the Colorado River Indian Reservation (“Reservation”). Complaint, ECF No. 1.

3. The Complaint sought judgment against Defendant including but not limited to a declaration that he was trespassing on the Reservation property at issue; ejectment of Defendant from the property on which he was trespassing; and monetary damages caused by Defendant's trespass, including the fair rental value of the property, administrative costs, the costs and expenses of restoring and remediating the property, and pre- and post-judgment interest on all damages awarded. *Id.*

4. Because Defendant failed to answer or respond to the United States' Complaint within the time prescribed by the Federal Rules of Civil Procedure, the United States requested on January 24, 2024, that the Clerk of the Court enter default against Defendant. ECF No. 13.

5. On January 25, 2024, the Clerk entered default against Defendant. ECF No. 14.

6. In light of the Clerk's entrance of default, on January 31, 2024, the Court issued an Order to Show Cause Re Default Judgment. ECF No. 15.

7. The Court set a hearing for that Order on March 4, 2024, but provided that, “[i]f a Motion for Default Judgment is filed prior to this hearing, the hearing on the Order To Show Cause will be discharged, and no appearance will be necessary.” *Id.*

1       8. The United States respectfully requests a continuance of the March 4,  
2 2024, hearing. Good cause exists because:

3           a. The United States intends to move for default judgment against  
4 Defendant Craig Ferguson pursuant to Fed. R. Civ. P. 55(b)(2) but cannot do so  
5 before March 4, 2024.

6           b. To move for default judgment, the United States has retained an  
7 expert appraiser to calculate the fair rental value of the property and pre-judgment  
8 interest, and to produce a declaration supporting those calculations that can be  
9 submitted to the Court.

10          c. The United States is also working with CRIT to assess whether  
11 restoration or remediation of the property is necessary and, if so, the cost.

12          d. Calculating both the fair rental value of the property and  
13 remediation costs, will require an in-person inspection of the property.

14          e. Due to the schedule of the United States' expert, that inspection  
15 cannot be completed until at least March 2024, and the expert's calculation of  
16 damages and declaration in support cannot be completed until April 2024.

17        9. Accordingly, the United States requests leave to file a Motion for  
18 Default Judgment, along with declarations and other evidence supporting its  
19 calculation of damages, by April 24, 2024.

20       10. At that time, the United States will provide a Notice of Motion setting  
21 a hearing on the Motion for Default Judgment, as required by L.R. 6-1.

22       11. Thus, the United States requests a continuance of the March 4, 2024,  
23 hearing until the date of the hearing on the Motion for Default Judgment.

24       12. The United States has not previously requested any continuances in  
25 this case.

1 I declare under penalty of perjury that the foregoing is true and correct.  
2  
3

4 DATED: February 7, 2024

5 Respectfully submitted,

6 TODD KIM  
7 Assistant Attorney General  
8 Environment and Natural Resources Division

9 /s/ *Cody McBride*  
10 CODY MCBRIDE, Trial Attorney  
11 REBECCA M. ROSS, Senior Attorney  
12 Indian Resources Section  
13 Environment and Natural Resources Division  
14 United States Department of Justice  
15 *Attorneys for the United States*

## **CERTIFICATE OF SERVICE**

I, certify that on February 7, 2024, a true and correct copy of this Response to Order to Show Cause and Request for Continuance of Hearing, together with the Default by Clerk (ECF No. 14) and Order to Show Cause Re Default Judgment (ECF No. 15), was served upon Defendant Craig Ferguson via expedited mail at the following known addresses:

16902 Baruna Lane  
Huntington Beach, CA 92649

7651 Garden Grove Blvd.  
Garden Grove, CA 92841

/s/ *Cody McBride*  
CODY MCBRIDE, Trial Attorney  
Indian Resources Section  
Environment and Natural Resources Division  
United States Department of Justice